

**STATE HUMAN RESOURCES COMMISSION MEETING
LEARNING AND DEVELOPMENT CENTER, COMMISSION CONFERENCE ROOM
101 WEST PEACE STREET - RALEIGH, NORTH CAROLINA**

MEETING MINUTES – FEBRUARY 5, 2015

Members Present

Members present were Chair Susan B. Manning, Commissioner Phillip Strach, Commissioner Martin Falls, Commissioner Dan Barrett, and Commissioner John Eller, Commissioner Mel Asbury, Commissioner Virgie Devane-Hayes, and Commissioner Kelly Sizemore.

Other Attendees

C. Neal Alexander, Jr., Director, Office of State Human Resources; Paula Woodhouse, Deputy Director, Office of State Human Resources; Lars Nance, General Counsel to the Commission; Valerie Bateman, General Counsel to Office of State Human Resources; Shari Howard, Rules and Policy Coordinator, Office of State Human Resources; LaShanda Langley, State Human Resources Commission Administrator, Office of State Human Resources; and Nancy Lipscomb, Director of Employee Relations and Local Government Services, Office of State Human Resources.

Opening

The State Human Resources Commission (SHRC) met on December 11, 2014. Pursuant to North Carolina General Statutes §138A and the North Carolina Ethics Act, Chair Manning asked all Commissioners if there were any conflicts of interest or potential conflicts of interest with respect to any matters coming before the Commission. Commissioner Strach recused himself from participating in any matter dealing with the **Anthony E. Scott v. NC DPS, SHP, 10 OSP 1105** contested case. The Commission convened its open meeting at 8:15am in the Learning and Development Center Commission Conference Room. Mrs. Kelly Sizemore was also recognized and welcomed to the State Human Resources Commission. Commissioner Sizemore will be serving on the State Human Resources Commission as a representative from private business or industry with a working knowledge of, or practical experience in, human resources management.

Business Session

Approval of Agenda

Motion: Commissioner Eller made a motion to move the EEOI Status Report to the consent agenda.

Seconded: Commissioner Strach seconded the motion.

The motion carried and no other changes were made to the agenda.

CONSENT AGENDA ITEMS

1. Approval of Minutes for the December 11, 2014 State Human Resources Commission Meeting
(Commission Action: Motion to Approve Minutes)
2. NC State Employees Workplace Requirements Program for Safety and Health (Fiscal Year 2014) Report
(Commission Action: Motion to Approve Report)

Motion: Commissioner Eller made a motion to approve the consent agenda items.

Seconded: Commissioner Asbury seconded the motion.

The motion carried.

Since the respondent's attorney was late for the meeting, Chair Manning asked for a motion to delay the oral argument section of the meeting to after the Public Comment section to give the attorney time to arrive for the oral argument portion of the meeting.

Motion: Commissioner Devane-Hayes made a motion to delay the oral argument section of the meeting to after the Public Comment section.

Seconded: Commissioner Asbury seconded the motion.

The motion carried.

Public Comment

Tom Harris, Chief of Staff/General Counsel for SEANC, gave public comments on 25 NCAC 01H.902 - Requirements for Reduction in Force Priority Consideration. Mr. Harris stated that the proposed amendments to 25 NCAC 01H. 0902(6) and .0904(c) exceed the SHRC's authority by adding a circumstance in which an employee will lose the RIF priority, i.e., when "an employee with priority status applies for a position refuses an interview" when G.S. 126-7.1, as amended by HB 834, only provides for the loss of the priority when such an employee "accepts or rejects an offer for a position" of an appropriate salary. OSHR responded to Mr. Harris and informed him that this rule is needed to ensure RIF candidates only apply for jobs for which they are really interested in accepting rather than applying for all jobs listed by an agency and then declining interviews for the ones they really don't want.

Oral Argument

The following case was scheduled and heard for oral argument:

1. **Anthony E. Scott v. NC DPS, SHP, 10 OSP 1105**

Attorney for Petitioner

Barry Nakell, Esq.

Attorney for Respondent

Tammera S. Hill, Assistant Attorney General

State Human Resources Director Report

Director Neal Alexander thanked the State Human Resources Commission for their dedication and service to the citizens of North Carolina. Director Alexander stated that one of the Governor's top priorities that was identified during the State of the State address is reducing the costs of Workers Compensation. Currently we are spending about \$85 million a year and need to reduce those costs. Director Alexander also stated that the Workers Compensation Administration will be consolidated within OSHR under the director of Mr. John Bogner. Currently OSHR is working on this transition.

Performance Management Policy Update

Jennifer McGinnis, HR Partner, gave an update on the Performance Management Policy. Ms. McGinnis stated that OSHR is currently working on revisions to the agency performance management policy which was originally approved by the SHRC in August 2014. OSHR is working on clarifying the section which addresses poor performance and making sure it is aligned with the disciplinary policy. OSHR is also working with UNC General Administration on drafting the university performance management policy and has received good feedback. OSHR will present the university performance management policy to the SHRC at its April meeting for approval and will also provide an update on the agency performance management policy revisions for approval.

Compensation System Project Update

Pam Bowling, HR Partner, gave an update on the Compensation Project. Currently, OSHR is refining and reviewing the structure and costing models with OSBM/Fiscal Research. There is also an implementation of a new Area/Group structure in Beacon and this phase of the Compensation Project will begin in spring 2015. The planning for implementation and position description gathering will also begin in spring 2015. Agency HR Departments will be involved in the project also through moratoriums on classification studies. Subject matter experts will increase involvement of agency staff to develop classifications and plan implementation for agencies. PeopleAdmin training will begin in early 2015. Mrs. Bowling stated that once the new system is implemented, we will then be able to move from across the board legislative increases to a salary increase budget to recognize performance or market movement, which will be recommended and administered by OSHR.

State Classification and Compensation Recommendations

Pam Bowling, HR Partner, also reviewed the State Classification and Compensation Recommendations for Correctional Officer roles in Division of Adult Correction in Department of Public Safety. The roles of the Correctional Officers have changed over the years due to some of these factors: changes in sentencing laws, increased numbers of inmates with mental health issues, more felon inmates in minimum custody, increase in the number and types of contraband coming into the prisons, and the prevalence of gangs. Currently there is only one level of Correctional Officer. The impact of these factors increases the difficulty of the Correctional Officer role as the custody level of the inmate goes up from minimum, medium to close. She indicated that OSHR is recommending three levels of Correctional Officer. The supervisory and managerial level custody classes were also reviewed to maintain equity in the structure. The supervisory custody classes progress in level based solely on the custody level of the facility. The managerial classes consider other factors in addition to custody level, such as number of inmates, number of employees, programs, enterprise operations, and special populations. If

approved, these actions are effective April 1, 2015. They will be phased in gradually as money is available. Once all of these actions have been implemented, the old class series will be abolished.

Motion: Commissioner Falls made a motion to approve the recommendations.

Seconded: Commissioner Devane-Hayes seconded the motion.

The motion carried.

Reorganization through Reduction Policy (RTR)

Shari Howard, OSHR Rules and Policy Coordinator, requested approval to amend the Reorganization through Reduction Policy (RTR). The change to the policy is establishing a new eligibility period for employees in a permanent full-time or part-time appointment type with 24 months of continuous employment as of July 1, 2014. These employees are now eligible to participate. On August 7, Senate Bill 744 was signed into law (S.L. 2014-100) authorizing an extension of the RTR through June 30, 2015. The new program dates are July 1, 2014 – June 30, 2015.

Motion: Commissioner Strach made a motion to amend the RTR policy.

Seconded: Commissioner Falls seconded the motion.

The motion carried.

Permanent Rulemaking and Hearing Officers Report from Dec. 16, 2014 Public Hearing

All the requirements for the rulemaking process have been met; therefore, OSHR is recommending the proposed rules listed below be approved for adoption as published. Upon approval of the proposed rules by the SHRC, the rules will be filed with the Office of Administrative Hearings, Rules Division, no later than February 20, 2015. The rules will be considered by the Administrative Rules Review Commission at its March 19, 2015 meeting with a proposed effective date of April 1, 2015.

Subchapter B

25 NCAC 1B .0350 - TIME FRAME FOR RAISING ALLEGATION OF DISCRIMINATION - AMEND

25 NCAC 1B .0413 - EXERCISE OF COMMISSION DISCRETION - AMEND

Subchapter C

25 NCAC 1C .0311 - EMPLOYEE OBJECTION TO MATERIAL IN FILE - AMEND

25 NCAC 1C .0402 - PERMANENT AND TIME-LIMITED APPOINTMENT - AMEND

25 NCAC 1C .0403 - TRAINEE APPOINTMENTS - AMEND

25 NCAC 1C .0404 - PROBATIONARY APPOINTMENTS - AMEND

25 NCAC 1C .1004 - REDUCTION IN FORCE - AMEND

25 NCAC 1C .1007 - UNAVAILABILITY WHEN LEAVE IS EXHAUSTED - AMEND

Subchapter D

25 NCAC 1D .0201 - INITIAL EMPLOYMENT - AMEND

25 NCAC 1D .2701 - SEVERANCE SALARY CONTINUATION - AMEND

Subchapter E

25 NCAC 1E. 0204 - TOTAL STATE SERVICE DEFINED - AMEND

25 NCAC 1E. 0901 - APPROVED HOLIDAYS - AMEND

25 NCAC 1E. 1601 - COMMUNITY SERVICE LEAVE - AMEND

25 NCAC 1E. 1602 – DEFINITIONS - AMEND

25 NCAC 1E. 1603 - COVERED EMPLOYEES AND LEAVE CREDITS - AMEND

**25 NCAC 1E. 1605 - COMMUNITY SERVICE LEAVE ADMINISTRATION -
AMEND**

**25 NCAC 1E. 1606 - ADDITIONAL TIME FOR COMMUNITY SERVICE
ACTIVITIES - REPEAL**

Subchapter H

**25 NCAC 1H. 0633 - SPECIAL APPLICANT CONSIDERATIONS RELATED
TO PRIORITY - AMEND**

25 NCAC 1H. 0634 - SELECTION OF APPLICANTS - AMEND

25 NCAC 1H. 0636 - EMPLOYMENT - E-VERIFY - AMEND

25 NCAC 1H. 0641 - EMPLOYMENT OF RELATIVES - ADOPT

**25 NCAC 1H .0901 - REDUCTION IN FORCE APPLICATION AND APPEAL -
AMEND**

**25 NCAC 1H .0902 - REQUIREMENTS FOR REDUCTION IN FORCE
PRIORITY CONSIDERATION - AMEND**

25 NCAC 1H .0904 - AGENCY AND EMPLOYEE RESPONSIBILITIES - AMEND

**25 NCAC 1H .0905 - OFFICE OF STATE HUMAN RESOURCES - AMEND
RESPONSIBILITIES**

25 NCAC 1H .1103 - DENIAL OF VETERAN'S PREFERENCE – AMEND

Subchapter J

25 NCAC 1J .0603 - APPEALS - AMEND

25 NCAC 1J .0610 - WRITTEN WARNING - AMEND

25 NCAC 1J .0615 - INVESTIGATORY LEAVE - AMEND

25 NCAC 1J .0616 - CREDENTIALS - AMEND

25 NCAC 1J .0617 - DISCRIMINATION AND RETALIATION - ADOPT

**25 NCAC 1J .0618 - APPEAL OF DENIAL OF VETERANS PREFERENCE -
ADOPT**

- 25 NCAC 1J .1101 - UNLAWFUL WORKPLACE HARASSMENT AND RETALIATION - AMEND**
- 25 NCAC 1J .1201 - GENERAL PROVISIONS - REPEAL**
- 25 NCAC 1J .1202 - AGENCY RESPONSIBILITIES - REPEAL**
- 25 NCAC 1J .1203 - AGENCY GRIEVANCE REPORTS - REPEAL**
- 25 NCAC 1J .1204 - DISCRIMINATION AND RETALIATION/SPECIAL PROVISIONS - REPEAL**
- 25 NCAC 1J .1205 - UNLAWFUL WORKPLACE HARASSMENT - REPEAL**
- 25 NCAC 1J .1206 - TIME LIMITS - REPEAL**
- 25 NCAC 1J .1207 - FINAL AGENCY DECISION - REPEAL**
- 25 NCAC 1J .1208 - LEAVE IN CONNECTION WITH GRIEVANCES - REPEAL**
- 25 NCAC 1J .1301 - MINIMUM PROCEDURAL REQUIREMENTS - REPEAL**
- 25 NCAC 1J .1302 - GENERAL AGENCY GRIEVANCE PROCEDURE REQUIREMENTS - ADOPT**
- 25 NCAC 1J .1303 - AGENCY AND UNIVERSITY GRIEVANCE REPORTS AND DATA ENTRY - ADOPT**
- 25 NCAC 1J .1304 - SETTLEMENTS, CONSENT AGREEMENTS IN GRIEVANCES, CONTESTED CASES - ADOPT**
- 25 NCAC 1J .1305 - OFFICE OF STATE HUMAN RESOURCES REVIEW AND APPROVAL OF FINAL AGENCY DECISION (FAD) – ADOPT**
- 25 NCAC 1J .1306 - BACK PAY - ADOPT**
- 25 NCAC 1J .1307 - FRONT PAY - ADOPT**
- 25 NCAC 1J .1308 - LEAVE - ADOPT**
- 25 NCAC 1J .1309 - HEALTH INSURANCE - ADOPT**
- 25 NCAC 1J .1310 - INTEREST - ADOPT**
- 25 NCAC 1J .1311 - REINSTATEMENT - ADOPT**
- 25 NCAC 1J .1312 - CAUSES FOR REINSTATEMENT - ADOPT**
- 25 NCAC 1J .1313 - SUSPENSION WITHOUT PAY – ADOPT**
- 25 NCAC 1J .1314 - DISCRIMINATION, HARASSMENT, OR RETALIATION - ADOPT**
- 25 NCAC 1J .1315 - VOLUNTARY PROGRAMS OR BENEFITS - ADOPT**
- 25 NCAC 1J .1316 - REMEDIES FOR PROCEDURAL VIOLATIONS - ADOPT**
- 25 NCAC 1J .1317 - REMEDIES-SALARY ADJUSTMENTS - ADOPT**
- 25 NCAC 1J .1318 - CERTAIN REMEDIES NOT AVAILABLE - ADOPT**
- 25 NCAC 1J .1319 - SITUATIONS IN WHICH ATTORNEY'S FEES MAY BE AWARDED - ADOPT**

**25 NCAC 1J .1320 - ATTORNEY'S FEES MAY BE AWARDED AS A
RESULT OF A SETTLEMENT - ADOPT**

**25 NCAC 1J .1401 - EMPLOYEE MEDIATION AND GRIEVANCE
PROCESS - REPEAL**

25 NCAC 1J .1402 - FLEXIBILTY - REPEAL

25 NCAC 1J .1403 - INFORMAL MEETING WITH SUPERVISOR - REPEAL

25 NCAC 1J .1404 - MEDIATION PROCEDURE - REPEAL

25 NCAC 1J .1405 - CONCLUSION OF MEDIATION - REPEAL

**25 NCAC 1J .1406 - LIMITATIONS ON A MEDIATION AGREEMENT -
REPEAL**

25 NCAC 1J .1407 - POST MEDIATION - REPEAL

**25 NCAC 1J .1408 - EMPLOYEE RESPONSIBILITIES FOR MEDIATION -
REPEAL**

**25 NCAC 1J .1409 - AGENCY RESPONSIBILITIES FOR MEDIATION -
REPEAL**

25 NCAC 1J .1410 - OFFICE OF STATE PERSONNEL RESPONSIBILITIES - REPEAL

**25 NCAC 1J .1411 - AGENCY PROCEDURAL RESPONSIBILITIES FOR
EMPLOYEE MEDIATION AND GRIEVANCE PROCESS - REPEAL**

**25 NCAC 1J .1412 - OFFICE OF STATE PERSONNEL RESPONSIBILITIES FOR
EMPLOYEE MEDIATION AND GRIEVANCE PROCESS - REPEAL**

Motion: Commissioner DeVane-Hayes made a motion to amend, adopt, and repeal the rules as Permanent.

Seconded: Commissioner Asbury seconded the motion.

The motion carried.

Adjournment

Chair Manning asked if there were any other business items to be heard during the business session. There being no additional items on the agenda, Chair Manning asked for a motion to adjourn the business session and immediately recess to go into Executive Session pursuant to the North Carolina General Statutes §§ 143-318.11(a)(6)(discussion of a public officer or employee), and pursuant to G.S. 143-318.11(a)(1) (for the purpose of “prevent[ing] the disclosure of information that is privileged or confidential pursuant to the law of this State”) and 143-318.11(a)(3) (for the purpose of “consult[ing] with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body”).

Motion: Commissioner Falls made a motion to adjourn.

Seconded: Commissioner Eller seconded the motion.

The motion was made and carried.

Executive Session

The State Human Resources Commission voted and rendered a decision in the following case:

- **Anthony E. Scott v. NC DPS, SHP, 10 OSP 1105**
Attorney for Petitioner Barry Nakell, Esq.
Attorney for Respondent Tammera S. Hill, Assistant Attorney General

Minutes submitted by:

LaShanda Langley, State Human Resources Commission Administrator